

**UNITRIN AUTO AND HOME INSURANCE COMPANY**

**NAIC COMPANY 16063**

**MARKET CONDUCT EXAMINATION REPORT**  
**as of December 31, 2004**

**COLORADO DEPARTMENT OF REGULATORY AGENCIES  
DIVISION OF INSURANCE**

**PREPARED BY INDEPENDENT CONTRACTORS FOR  
COLORADO DEPARTMENT OF REGULATORY AGENCIES  
DIVISION OF INSURANCE**

**Unitrin Auto and Home Insurance Company**

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EXAMINATION REPORT  
as of  
December 31, 2004**

**Prepared by**

**Gary L. Domer, CIE  
James H. Daughan, CPCU, CIE, AIM**

**Independent Contract Examiners**

December 7, 2005

The Honorable David Rivera  
Commissioner of Insurance  
State of Colorado  
1560 Broadway Suite 850  
Denver, Colorado 80202

Commissioner Rivera:

In accordance with Sections 10-1-203, C.R.S. and 10-3-1106, C.R.S., the examiners reviewed selected claims, underwriting and rating practices of the Unitrin Auto and Home Insurance Company's private passenger automobile and homeowners business. The Company's records were examined at the Main Administrative office located at 5210 Belfort Road, Ste. 120, Jacksonville, FL, 32256 and 80 Blue Ravine #200, Folsom, CA, 95630. The examination covered an 18 month period from July 1, 2003, to December 31, 2004.

A report of the examination of the Unitrin Auto and Home Insurance Company is, herewith, respectfully submitted.

Gary L. Domer, CIE  
James H. Daughan, CPCU, CIE, AIM

Independent Market Conduct Examiners

**MARKET CONDUCT  
EXAMINATION REPORT  
OF  
Unitrin Auto and Home Insurance Company**

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**COMPANY PROFILE****UNITRIN AUTO AND HOME INSURANCE COMPANY**

In July 2002 Unitrin Inc. acquired renewal rights to the personal lines business of Kemper Insurance Company (KIC) and formed the Kemper Auto and Home Group (KAHG).

Initially, KAHG used the rates, rules and forms filed by the Kemper Insurance Company (KIC) while continuing to write business on KIC paper. In March 2003, a KAHG company, Unitrin Auto and Home Insurance Company (UAH), filed rates, rules and forms that were identical to the KIC underwriting companies, for use in Colorado. UAH started writing new business effective 5/5/03. Existing KIC policy holders were offered replacement policies upon their policy's expiration dates, beginning with policies effective 6/15/2003.

Unitrin Auto and Home is licensed in twenty-one (21) states with certificates of authority in forty-five (45) states. Policies are produced by independent agents. In addition to standard monoline auto and homeowners policies the company writes a personal lines package policy combining homeowner and automobile coverages.

As of December 31, 2004, Unitrin Auto and Home Insurance Company had 4,425\* Private Passenger Automobile policies and 4,477\* Homeowners policies in force in Colorado. The company reported \$8,346,000 \*\* private passenger automobile written premium and \$3,320,000\*\* Homeowners written premium in Colorado as of December 31, 2004. This represented a .30%\*\* market share of all private passenger automobile insurance and .31%\*\* homeowners insurance written in Colorado.

\*Data as reported by the Company

\*\*Data as reported in the Colorado Insurance Industry Statistical report

### **PURPOSE AND SCOPE OF EXAMINATION**

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law, Section 10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work products developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance laws and with generally accepted operating principles related to automobile insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report

The examination was governed by, and was performed in accordance with procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and materials maintained by the Company. The examination covered eighteen (18) months of the Company's operations, from July 1, 2003, to December 31, 2004.

File sampling was based on a review of claims, underwriting and rating files systematically selected from file runs provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any findings were noted on a comment form and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond and was requested to agree, disagree or otherwise justify the Company's noted action.

The examination report is a report by exception and much of the material reviewed is not addressed in the written report. Reference to any practices, procedures, or files which manifested no improprieties was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most instances where monetary values were involved. However, in instances where monetary values were generated by computer or other systematic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines. When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic or, when due to the sampling process, it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) are also included.

The report addresses Private Passenger Automobile and Homeowner issues and contains information regarding exceptions to the Colorado Insurance Code. The examination included review of the following four (4) Company operations:

1. Company Operations and Management
2. Complaint Handling
3. Underwriting and Rating
4. Claims

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

**EXAMINERS' METHODOLOGY**

The examiners reviewed the Company's claim, complaint, underwriting and rating practices for private passenger automobile and homeowners insurance to determine compliance with the Colorado insurance laws.

**Exhibit 1: Private Passenger Auto**

<b>Law</b>	<b>Subject</b>
Section 10-1-205	Financial Examination Reports
Section 10-1-203	Authority, scope, and scheduling of examinations
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices
Section 10-3-1106	Power of Commissioner
Section 10-3-1107	Hearings
Section 10-3-1108	Orders
Section 10-3-1109	Penalty for violation of cease and desist orders
Section 10-4-401	Purpose-applicability
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-618	Unfair or discriminatory trade practices-legislative declaration
Section 10-4-619	Coverage compulsory
Section 10-4-620	Required Coverage
Section 10-4-621	Required Coverages are minimum
Section 10-4-622	Required provision for intrastate and interstate operation
Section 10-4-623	Conditions and exclusions
Section 10-4-624	Self-insurers
Section 10-4-625	Quarterly premium payments
Section 10-4-626	Prohibited reasons for non-renewal or refusal to write a policy
Section 10-4-627	Discriminatory standards-premiums-surcharges-proof of financial resp.
Section 10-4-628	Refusal to write-changes in-cancellation-non-renewal of policies
Section 10-4-629	Cancellation-renewal-reclassification
Section 10-4-630	Exclusion of named driver
Section 10-4-631	Insurers to file rate schedule
Section 10-4-632	Reduction in rates for drivers 55 years or older/drivers ed course
Section 10-4-633	Certification of policy and notice forms
Regulation 1-1-6	Certification of forms
Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 1-1-8.	Penalties And Timelines Concerning Division Inquires and Document Requests



Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Ins. Scoring.
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Auto Accident Reparations Act (No Fault) Rules and Regulations.
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 5-2-12	Concerning Automobile Consumer Protections
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.

### **Company Operations and Management**

The examiners reviewed Company management, implementation, quality control, record retention, installment payment plans, form certification, and timely cooperation with the examination process.

### **Complaints**

The examiners reviewed and compared the complaint log maintained by the Division of Insurance with the Company's complaint log to verify the accuracy of the Company's tracking system. Also, the examiners evaluated the Company's complaint handling methodology and reviewed the reasons for and disposition of complaints.

### **Contract Forms and Endorsements**

The following Private Passenger Automobile forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance.

<b>Title</b>	<b>Form</b>	<b>Edition</b>
Parked Auto collision	AU40	1-77
Fincancial Responsibility	AU109	1-77
Additional interest	AU112	9-89
Prepayment of premium	AU184D	1-77
Exclusion of named driver	AU324	1-77
Repair/replacement (Kemper total)	AU684	2-96
Existing insurance	AU749	11-88
Kip-extended transportation expenses coverage	Au750	6-94
Personal injury protection	AU843	9-99
Pkge-auto changes to your policy	AU845	12-02

Pkge-auto changes to your policy	AU845	11-04
Personal Auto Policy	PP0001	6-94
Amendment of Policy provisions-CO	PP0161	10-02
Amendment of Policy provisions-CO	PP0161	11-04
Suspension of insurance	PP0201	8-86
Reinstatement of insurance	PP0202	8-86
Federal employee using auto in gov bus	PP0301	8-86
Increased limits transportation expenses	PP0302	6-94
Exetnded nonowned cov-named individuals	PP0306	6-94
Covered property coverage	PP0307	6-94
Coverage for damage to your auto	PP0308	6-94
Split liability limits	PP0309	4-86
Audio, visual & electronic equip & tapes	PP0313	6-94
Customizing equipment coverage	PP0318	9-93
Additional insured-lessor	PP0319	8-86
Mexico coverage	PP0321	6-94
Miscellaneous type vehicle endorsement	PP0323	6-94
Liability coverage exclusion endorsement	PP0326	8-86
Miscellaneous type vehicle amendment	PP0324	6-94
Joint ownership coverage	PP0334	9-93
Auto loan lease coverage	PP0335	9-93
Mexican collision coverage	PP0357	2-92
Split limit uninsured motorist limits	PP0401	4-86
Uninsured underinsured motorists coverage	PP0425	7-02
Uninsured underinsured motorists coverage	PP0425	2-05
Property damage uninsured motorists-CO	PP0437	4-99
Coverage for damage to your auto exclusion	PP1301	12-99
PCL watercraft	AK3657	10-85
PCL auto garage business exclusion	AK3658	10-85
PCL amendment-water skiing	AK3661	10-85
PCL amendment-hotel motel operator	AK3663	10-85
PCL amendment dwelling apartment rental	AK3664	10-85

PCL amendment emergency auto exclusion	AK3731	10-85
PCL amendment funeral director	AK3732	10-85
PCL amendment office studio premises	AK3733	6-94
PCL amendment libel and slander	AK3659	10-85
Personal catastrophe liability	AK3714	6-96
Personal catastrophe liability	AK3714	4-04
Cancellation Notice	PC96121314211702404142430CO52001	none
Cancellation Notice	PN96974414243010211CO52001	none
Cancellation Notice	PN9697404142430102CO1998	none
Conditional renewal notice	PR972903212804404142431002CO32004	none
Conditional Renewal Notice	PR970312804404182431002CO52003	none

The following Homeowners forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance.

HO 0003 Policy Contract	HO 0003	4-91
HO 0004 Policy Contract	HO 0004	4-91
HO 0006 Policy Contract	HO 0006	4-91
Special Personal Property Coverage	HO 00 15	4-91
Additional Interests-Residence Premises	HO 04 10	4-91
Additional Limits of Liability for Coverages A,B,C,D	HO 04 11	6-94
Increased limits on Business Property	HO 0412	4-91
Special Computer Coverage	HO 0414	4-91
Premises Alarm or Fire Protection System	HO 04 16	4-91
Home Business Additional Exclusions	HO 04 17	9-98
Specified Additional Amount of Insurance	HO 04 20	6-94
Loss assessment coverage	HO 04 35	4-91
Loss assessment for earthquake	HO 04-36	4-91
Structures rented to Others-residence premises	HO-04 40	4-91
Permitted Incidental Occupancy Residence Premises	HO 04 42	4-91
Inflation Guard endorsement	HO 04 46	4-91
Other Structures-Increased Limits	HO 04 48	4-91

Increased Limits on Personal Property-Other Residence	HO 04 50	4-91
Building Additions/Alterations-Increased Limits	HO 04 51	4-91
Credit Card Coverage-Increased Limits	HO 04 53	4-91
Earthquake	HO 04 54	6-94
Identity Fraud Expense Coverage	HO 04-55	3-03
Homeowners changes to your policy—CO	AK 5006	none
Scheduled Personal Property Endorsement	HO 04 61	4-91
Coverage C- Increased special Limits of Liability	HO 04 65	4-91
Coverage C- Increased special Limits of Liability	HO 04 66	4-91
Ordinance or Law Increased amount of Coverage	HO 04 77	4-91
Residence Rental Theft	HO 04 80	4-91
Coverage B-Off Premises	HO 04 91	4-91
Specific Structures away form Residence Premise	HO 04 92	4-91
ACV Loss Settlement Roof Surfacing	HO 04 93	5-94
No Coverage for Home Day Care Business	HO 04 96	4-91
Refrigerated Property Coverage	HO 04 96	4-91
Sinkhole Collapse	HO 04 99	4-91
Unit owners Coverage A (HO 00 06)	HO 17 32	4-91
Unit-Owners Rental to Others	HO 17 33	4-91
Permitted Incidental Occupancy-Other Residences	HO 24 23	4-91
Additional Residences Rented to Others	HO 24 70	4-91
Business Pursuits	HO 24 71	4-91
Incidental Farming Personal Liability	HO 24 72	4-91
Watercraft Liability	HO 24 75	4-91
Personal Injury	HO 24 82	4-91
Inflation Protection	VK 220	4-76
Prepayment of Protection	VK 388	7-77
Additional Named Insured	VK 735	3-80
Personal Electronic Equipment	VK 935	6-83
Residence Safety Package	VK 1012	2-85
Scheduled Agreed Amount	VK 1035	5-85
Replacement Value	VK 1036	8-85
Unscheduled Jewelry, Watches and Furs	VK 1046	4-91

Special Homeowners Endorsement	VK 1119	4-91
Special Coverage-Dwelling & Personal Property (HO 0006)	VS 1043	4-91
Additional Insured Coverage	VS 1146	2-92
Water Backup and sump Overflow	VS 1225	1-94
Repair or Replacement	VS 1451	4-98
Home Business	VS 1555	6-00
Deluxe Endorsement	VS 1592	7-99
Elite Endorsement	VS 1593	7-99
Deluxe Endorsement	VS 1594	7-99
Elite Endorsement	VS 1595	7-99
Blanket Valuable Items	VS1599	6-02
Special Provisions-CO	VS 1607	1-01
Special Provisions-CO	VS 1773	11-03
Boatowners Endorsement	VS 1803	1-02
Lender Loss Payee	VS 1804	1-02
Boatowners Important Notice	VS 1898	1-02
Jewelry Safe Credit	VS 1837	6-02
Limited Mold, Fungi & Microbes Coverage (HO 006)	VS 1937	5-02
Limited Mold, Fungi & Microbes Coverage (HO 003)	VS 1938	5-02
Policy Jacket	AK 5153	1-05
Policy Jacket	AK 5153	3-03
Personal Jewelry Broad Pair & Sets Coverage	IJF 1011	6-08
Personal Jewelry in Vaults	IJF 1012	4-83
Stamp & Coin Collection	ISC 1311	6- 80
Policy Territory Extension	UK 635	1-85
Homeowner Disclosure	AK 1047	8-04
Homeowner Disclosure	AK 1047	10-99

The following Package Plus forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance.

Package Plus Contract	VS 1226	10-94
Inflation Protection	VK 1090	4-91
Inflation Guard	VK 1091	4-91
Existing Insurance Credit	VK 1116	11-87
Coverage B Off Premises	VS 1161	7-92
Package Plus Policy	VS 1226	10 94
Ordinance & Law – Increased Limits	VS 1223	3-94
Earthquake Coverage	VS 1240	6-94
Classic Coverage Enhancement	VS 1467	6-04
Classic Coverage Enhancement	VS 1467	7-98
Deluxe Endorsement	VS 1586	7-99
Elite Endorsement	VS 1587	7-99
Deluxe Endorsement	VS 1590	7-99
Elite Endorsement	VS 1591	7-99
Extended Replacement Cost Coverage	VS 1780	5-01
Limited Mold, Fungi and Other Microbes Coverage	VS 1939	5-02
Limited Mold, Fungi and Other Microbes Coverage	VS 1940	5-02
HO-Changes to your Policy	AK 5005	11-03
HO-Changes to your Policy	AK 5006	01-01
Policy Jacket	AK 5152	03-03
Policy Jacket	AK 5152	01-05
Package Plus Disclosure	AK 5010	08-04
Package Plus Disclosure	AK 5010	07-03

**In Force Business /Cancellations/Non-renewals/Surcharges**

For the period under examination the examiners systematically selected the following underwriting samples to determine compliance with Colorado Insurance law.

Private Passenger Auto			
Review Lists	Population	Sample	Percentage to Population
In Force Business	5627	100	.2%
Non-renewals	253	50	5%
Cancel Non Pay	354	50	5%
Cancel in 59 days	47	47	100%
Cancel after 59 days	6	6	100%
Surcharges	497	50	10%

Homeowners			
Review Lists	Population	Sample	Percentage to Population
New Business	1968	50	3%
Cancel after 59 days	9	9	100%
Cancel in 59 days	44	44	100%
Non-Pay Cancellations	273	50	18%
Non-Renewals	216	50	23%

**Rating**

The examiners reviewed rate and rule filings, statistical justifications, and methodology submitted to the Colorado Division of Insurance for the period under examination. This information was compared to a sample of in-force policies, rated by coverage, to determine compliance with base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations.

**Claims**

The examiners reviewed the company's claim handling procedures and the timeliness and accuracy of PIP payments.

Private Passenger Auto			
Review Lists	Population	Sample	Percent to Population
Med Pay	13	13	100%
All Other Paid Claims	611	50	24%
Closed without payment	112	50	45%

Homeowners			
Review Lists	Population	Sample	Percent to Population
Claims Paid	181	50	28%
CWP	60	50	83%

**EXAMINATION REPORT SUMMARY**

The examination resulted in nine (9) issues arising from the Company's apparent failure to comply with Colorado statutes and regulations that govern all property and casualty insurers operating in Colorado. These issues involved three (3) of the four (4) categories of Company operations examined as follows:

**Company Operations and Management:** In the area of company operations three (3) compliance issues are addressed in this report.

- Failure, in some instances, to disclose the company name on an application.
- Failure, in some instances, to retain records required for Market Conduct Purposes.
- Failure to certify forms.

**Complaint Handling:** In the area of complaint handling no compliance issues are addressed in this report.

**Underwriting and Rating:** In the area of underwriting and rating five (5) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements that must be complied with whenever policies are issued, canceled, non-renewed, premiums increased or decreased, or surcharged. It is recommended that the Company review its underwriting and rating practices and procedures and make the changes necessary to ensure future compliance with applicable statutes and regulations as to each issue.

- Failure, in some instances, to send a notice of premium increase.
- Failure, in some instances, to properly continue the private passenger auto portion of package policies when package policies were cancelled.
- Failure, in some instances, to properly cancel or non-renew policies of insurance.
- Failure, in some instances, to follow a filed rating plan.
- Failure, in some instances, to send a proper notice of cancellation.

**Claim Handling:** In the area of claim handling one (1) compliance issue is addressed in this report.

- Failure to pay title transfer fees on total loss claims.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance. Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance) or by contacting the Colorado Division of Insurance.



**UNITRIN AUTO AND HOME INSURANCE COMPANY**

**PERTINENT FACTUAL FINDINGS**

**PERTINENT FACTUAL FINDINGS**  
**OPERATIONS AND MANAGEMENT**

**Issue A: Failure, in some instances, to disclose the company name on an application.**

Colorado Insurance Regulation 5-1-2, Application and Binder Forms, promulgated by the Commissioner of Insurance under the authority of Sections 10-1-109 and 10-3-1110, C.R.S., states, in part:

5. Rules

A producer shall clearly disclose the name of the insurance company on all applications, binders, and similar forms that will be used to insure the risk prior to the time the policy reaches the applicant.

**Private Passenger Auto Policies In Force**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
5627	100	27	27%

The examiners reviewed 100 policies, representing 1.8% of all private passenger auto policies written by the Company in Colorado. Twenty-seven (27) exceptions (27 % of the sample) resulted because the Company failed to disclose the name of the company on the application.

**Homeowner New Business Policies**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
1968	50	23	46%

The examiners reviewed fifty (50) policies, representing 2.5% of all homeowner new business policies written by the Company in Colorado. Twenty-three (23) exceptions (46 % of the sample) resulted because the Company failed to disclose the name of the company on the application.

Failure to clearly disclose the name of the insurance company on an application for an insurance policy may be a violation of Colorado Insurance law.

**Recommendation #1:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Colorado Insurance regulation 5-1-2. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has implemented policies and procedures to ensure future compliance with Colorado Insurance law.

**Issue B: Failure, in some instances, to retain records required for Market Conduct Purposes.**

Colorado Insurance Regulation 1-1-7, Market Conduct Record Retention, promulgated by the Commissioner of Insurance under the authority of Section 10-1-109(1), C.R.S., states, in part:

**Section 4. Records Required For Market Conduct Purposes**

A. Every entity subject to the Market Conduct process shall maintain its books, records, documents and other business records in a manner so that the following practices of the entity subject to the Market Conduct process may be readily ascertained during market conduct examinations, including but not limited to, company operations and management, policyholder services, claim's practices, rating, underwriting, marketing, complaint/grievance handling, producer licensing records, . . . Records for this regulation regarding market conduct purposes shall be maintained for the current calendar year plus two prior calendar years.

**Section 5. Policy Records**

A. The following records shall be maintained: A policy record shall be maintained for each policy issued. Policy records shall be maintained so as to show clearly the policy period, basis for rating and any imposition of additional exclusions from or exceptions to coverage. If a policy is terminated, either by the insurer or the policyholder, documentation supporting the termination and account records indicating a return of premiums, if any, shall also be maintained.

**Section 12. Records Usually Required For Examination . . .**

F. Underwriting and rating practices: . . . cancellations/nonrenewals . . .

**Private Passenger Auto Policies Non-Renewed**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
253	50	9	18%

The examiners reviewed fifty (50) policies, representing 20% of all private passenger auto policies non-renewed by the Company. Nine (9) exceptions (18 % of the sample) resulted because the Company failed to retain non-renewal notices.

Failure to maintain non-renewal notices for Market Conduct examination purposes may be a violation of Colorado Insurance law.

**Recommendation #2:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Colorado Insurance regulation 1-1-7. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has implemented policies and procedures to ensure future compliance with Colorado Insurance law.

**Issue C: Failure to certify some forms.**

Section 10-4-629, C.R.S., Cancellation-renewal-reclassification, states, in part:

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

Section 10-4-633, C.R.S., Certification of policy and notice forms, provides, in part:

(1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted no later than July 1 of each year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law.

(2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form . . . at least thirty one days before using such policy form . . .

The following policy three (3) policy cancellation forms were not certified as complying forms to the Division of Insurance.

1. PC96121314211702404142430CO52001
2. PN969740414243010211CO52001
3. PN9697404142430102CO41998

The following two (2) Notice of Policy Conditional Renewal (Notice of Surcharge) forms were not certified as complying forms to the Division of Insurance.

4. PR972903212804404142431002CO32004
5. PR 9703212804404182431002CO52003
6. Form AK 5006 (01 01) Homeowners changes to your policy—Colorado, contains private passenger auto coverage changes and was not certified to the Division of Insurance as a complying form.

7. Form VS1226 (10 94), Package Plus Policy, containing private passenger auto coverage, was not certified to the Division of Insurance prior to use for policy year 2003 through 7/1/2004. The form was certified by the company on June 25, 2004, to be effective 6 days hence, 7/1/2004.
8. An un-numbered form used for non-renewals.

Failure to annually certify private passenger automobile forms to the Division of Insurance and failure to certify a new form at least thirty-one (31) days prior to use may be a violation of Colorado Insurance law.

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**Recommendation #3:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Sections 10-4-629 and 10-4-633, C.R.S. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has implemented policies and procedures to ensure future compliance with Colorado Insurance law.

**PERTINENT FACTUAL FINDINGS**

**UNDERWRITING AND RATING**

**Issue D: Failure, in some instances, to send a notice of premium increase.**

Section 10-4-629, C.R.S., Cancellation – Nonrenewal – Reclassification; states, in part:

(1) Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner, that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

**Private Passenger Auto Policies Surcharged**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
497	50	43	86%

The examiners reviewed fifty (50) policies, representing 10% of all policies surcharged by the Company. Forty-three (43) exceptions (86% of the sample) resulted because the Company failed to send a notice of increased premium to the named insured.

Failure to send a notice of increased premium when surcharging policies may be a violation of Colorado Insurance law.

**Recommendation #4:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Sections 10-4-629, C.R.S. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has implemented policies and procedures to ensure future compliance with Colorado Insurance law.



**Issue E: Failure, in some instances, to offer a named driver exclusion.**

Section 10-4-628, C.R.S. Refusal to write-changes in cancellation-nonrenewal of policies prohibited, states, in part:

(2)(b) (I) An insurer shall not refuse to write a complying policy solely because of the claim or driving record of one or more but fewer than all of the persons residing in the household of the named insured.

(II) An insurer shall offer to exclude any person in a household by name pursuant to section 10-4-630 if such person's driving record and claim experience would justify the refusal by such insurer to write a policy for such person if such person were applying in such person's own name and not as part of a household.

Section 10-4-630, C.R.S. Exclusion of named driver, states, in part:

(1) In any case where an insurer is authorized under this part 6 to cancel or refuse to renew or *increase the premiums* on an automobile liability insurance policy under which *more than one person is insured because of the claim experience or driving record of one or more but less than all of the persons insured under the policy*, the insurer shall in lieu of cancellation, nonrenewal, or premium increase offer to continue or renew the insurance but to exclude from coverage, by name, (italics added) the person whose claim experience or driving record would have justified the cancellation or nonrenewal. The premiums charged on any such policy excluding a named driver shall not reflect the claims, experience, or driving record of the excluded named driver.

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, promulgated by the Commissioner of Insurance under the authority of Sections 10-4-601.5, 10-4-625, 10-4-628(4), and 10-1-109, C.R.S.; effective February 1, 2004, states, in part:

### **Section 5 Rules**

#### **B. Notice of proposed actions**

a. A proposal to cancel, nonrenew, increase the premium or reduce coverage under a private passenger motor vehicle insurance policy shall state the actual reason for proposing such actions in the notice required by Section 10-4-629(2)(c), C.R.S. Only one notice is required to be sent to the policyholder. The statement of reasons shall be clear and specific so that a reasonable person can understand it. For purposes of this notice, "clear and specific" shall mean the inclusion of the following: ...

(3) Clear description of the nature of the at-fault accident including the date and location;

#### **Private Passenger Auto Policies Surcharged**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
497	50	1	2%

The examiners reviewed fifty (50) policies, representing 10% of all policies surcharged by the Company. One (1) exception (2% of the sample) resulted because the Company failed to offer a named driver exclusion.

**Homeowners Policies cancelled after the first 59 days**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
9	9	1	11%

The examiners reviewed nine (9) policies, representing 100% of all homeowners policies written either as part of a package or as a mono-line policy that were cancelled after the first 59 days. One (1) exception (11% of the sample) resulted because the private passenger auto coverage was cancelled because of the driving record of one or more drivers without an offer to continue the coverage with a named driver exclusion including a statement of the revised premium.

It appears that the Company is not in compliance with Colorado insurance law in that the auto coverage of the above cited package policies each included more than one driver; however, the cancellation notice did not offer a named driver exclusion.

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**Recommendation #5:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Sections 10-4-628 and 10-4-630, C.R.S., and Colorado Insurance Regulation 5-2-12. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has implemented policies and procedures to ensure future compliance with Colorado Insurance law when policies are cancelled.

**Issue F: Failure, in some instances, to properly cancel or non-renew policies of insurance.**

Section 10-4-602, C.R.S., Basis for cancellation, states, in part:

- (1) A notice of cancellation of a policy shall be valid only if it is based on one or more of the following reasons:
  - (a) Nonpayment of premium; or
  - (b) The driver's license or motor vehicle registration of either the named insured or any operator either residing in the insured's household or who customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty days immediately preceding its effective date; or
  - (c) An applicant knowingly made a false statement on the application for insurance; or
  - (d) An insured knowingly and willfully made a false material statement on a claim submitted under the policy.
- (2) This section shall not apply to any policy or coverage which has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy.
- (3) This section shall not apply to nonrenewal of a policy.

The below listed policies were cancelled for reasons not enumerated above and may be in violation of Colorado Insurance law.

Colorado Insurance Regulation 5-2-3, Auto Accident Reparations Act (No Fault) Rules and Regulations, promulgated under the authority of Sections 42-1-204, 10-4-704, 10-4-718, 10-4-719.7 and 10-1-109, C.R.S. and Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, promulgated under the authority of Sections 10-4-601.5, 10-4-625, 10-4-628(4) and 10-1-109, C.R.S. state, in part:

- 5. Unacceptable reasons for refusal to renew a policy of automobile insurance include, but are not limited to the following: . . .
  - b. The previous producer no longer represents the company.

Colorado amended Regulation 5-2-12 Concerning Automobile Insurance Consumer Protections, promulgated by the Commissioner on Insurance under the authority of Sections 10-4-601.5, 10-4-625, 10-4-628(4), and 10-1-109, C.R.S. states, in part:

- 5. Unacceptable reasons for refusal to renew a policy of automobile insurance include, but are not limited to the following: . . .
  - b. The previous producer no longer represents the company.

**Private Passenger Auto Policies cancelled after the first 59 days**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
6	6	3	50%

The examiners reviewed six (6) policies, representing 100% of all private passenger auto policies, (including the package policies that included private passenger auto coverage), cancelled after the first 59 days. Three (3) exceptions (50% of the sample) resulted because the policies (including the auto coverage) were cancelled for reasons not allowed under Colorado Insurance law.

**Private Passenger Auto Policies non-renewed**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
253	50	26	52%

The examiners reviewed fifty (50) policies, representing 20% of all private passenger auto policies, (including package policies that included private passenger auto coverage), non-renewed by the Company. Twenty-six (26) exceptions (52% of the sample) resulted because the private passenger auto coverage part of the package policy was non-renewed for reasons not allowed under Colorado insurance law.

One (1) private passenger auto coverage section was cancelled because of an unacceptable motor vehicle record.

Two (2) private passenger auto coverage sections were cancelled because the Homeowners coverage part of the package policy was cancelled.

Twenty six (26) exceptions resulted when policies were non-renewed because the agent was no longer writing this line of insurance with the Kemper Insurance companies.”

Canceling private passenger auto policies in effect for more than sixty (60) days for reasons other than those described above and/or non-renewing private passenger auto policies of insurance because the producer no longer represents the company may be a violation of Colorado Insurance law.

**Recommendation #6:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Section 10-4-602, C.R.S. and Colorado Insurance Regulation 5-2-3. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has implemented policies and procedures to ensure future compliance with Colorado Insurance law when non-renewing policies.

**Issue G: Failure, in some instances, to follow a filed rating plan.**

Section 10-3-1104(1)(f)(II), C.R.S., Unfair methods of competition and unfair or deceptive acts or practices prohibited, defines unfair discrimination as:

Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Section 10-4-405, C.R.S., Filing of rating information-certain coverages, provides, in part;

(1) With respect to type I kinds of insurance as defined in section 10-4-401(3) (a), every insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating plan, and every modification of any of the forgoing which it proposed to use in the state.

Section 10-4-401(3) (b), C.R.S., Purpose-applicability, provides, in part:

Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner; ...

Colorado Insurance Regulation 5-1-10, Rate and Rule Filing Submissions Property And Casualty Insurance, promulgated pursuant to the authority of Sections 10-1-109, 10-3-1110, 10-4-404, and 10-4-404.5, C.R.S., states, in part:

Section 5. Rules ...

C. Rule Filing General Requirements ...

2. Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the forgoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated

The Unitrin Auto and Home Insurance Company, Colorado Homeowners Manual, Rule 405. Protective Devices, states:

- A. Approved and properly maintained installations of burglar alarms, fire alarms, and automatic sprinklers in the dwelling may be recognized for a reduced premium-computed by multiplying the base premium by the selected factors below. Unless otherwise indicated, credits may be cumulative.

	Factor
Type of Installation	
Central Station Reporting Burglar Alarm	.95
Central Station Reporting fire Alarm	.95
Police Station Reporting Burglar Alarm	.97
Fire Department Reporting Fire Alarm	.97
Local Burglar and/or Fire Alarm and/or Smoke Detectors	.98+
Automatic Sprinklers in all areas including attics, bathrooms, closets, attached structures; or	.87
Automatic sprinklers in all areas except attic, bathroom, closet and attached structure areas that are protected by a fire detector	.92

B. Residence Safety Package

The factor listed below will be applied to the BASE PREMIUM for the installation and proper maintenance of the following three items in the dwelling:

	Factor
Smoke Detector(s); Deadbolt Lock(s); and Fire extinguishers(s)	.97

Use Endorsement VK 1012 Residence Safety Package.

The company's Personal Vehicle Manual, rule 4. Classifications, states, in part: ...

C. Definitions

9. Mature Operator Driver's Education Course Discount

- a. A 5% Mature Operator Driver's Education Course Discount applies to the premiums for Bodily Injury and Property Damage or single Limit Liability, Personal Injury Protection and Collision coverages, ...

The company's Personal Vehicle Manual, rule 8. POLICY PERIOD, states, in part: ...

**ROUNDING RULES:**

Rates and premiums displayed in:

(1) Whole dollar premiums shall be rounded to the next higher whole dollar (.50 or more round upward).

**Homeowners New Business**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
1968	50	12	24%

The examiners reviewed fifty (50) policies, representing 2.5% of all homeowners new business policies, including package policies that include homeowner coverage, written by the Company. Twelve (12) exceptions (24% of the sample) resulted because the company failed to follow their filed rating plan.

Ten (10) exceptions resulted because the company failed to give a protective device or a residence safety package credit.

Two (2) exceptions resulted because policies were credited incorrectly. One (1) exception resulted because a 13% protective device credit was applied where no credit was due and one (1) exception resulted because a 15% protective device credit, rather than the correct 10% credit, was applied.

**Private Passenger Auto Policies In Force**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
5627	100	17	17%

The examiners reviewed 100 policies, representing 1.8% of all policies, including package policy Private Passenger Auto coverage parts and mono-line policies written by the Company. Seventeen (17) exceptions (17 % of the sample) resulted because the Company failed to follow their filed rating plan.

One (1) exception occurred because the Company applied a mature driver discount to medical payments coverage, which is a violation of their filed rating plan.

Fifteen (15) exceptions occurred because, when calculating the premium for a six (6) month policy, the company divided the annual premium in half but failed to round the resulting premium to the nearest whole dollar, a violation of their filed rating plan.

One (1) exception occurred because the company used a base rate of \$91 rather than the filed rate of \$100. Rate filing 118575 contained a comprehensive base rate for territory 50 of \$100. The filing applied to new business effective May 24, 2004, and renewal business effective July 12, 2004.

The above described rating errors are systemic in nature because they result from programming errors.

Failure to follow a filed rating plan may be a violation of Colorado Insurance law.

**Recommendation #7:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Sections 10-3-1104, 10-4-405 and 10-4-401, C.R.S., and Colorado Insurance Regulation 5-1-10. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has implemented policies and procedures to ensure future compliance with Colorado Insurance law.



**Issue H: Failure, in some instances, to send a proper notice of cancellation.**

Section 10-4-629, C.R.S., Cancellation - renewal – reclassification, states, in part:

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

(a) The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction;

(b) The proposed effective date of the action;

(c) The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).

Colorado amended Regulation 5-2-12 Concerning Automobile Insurance Consumer Protections, promulgated by the commissioner on Insurance under the authority of Sections 10-4-601.5, 10-4-625, 10-4-628(4), and 10-1-109, C.R.S. states, in part:

Section 5. Rules

B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

1.(3)(e). No insurer shall refuse to write, cancel, fail to renew, reclassify an insured under, reduce coverage under (except as part of a general reduction in coverage filed with the Commissioner), or increase the premium for any complying policy as defined in §10-4-601(1), C.R.S., *based on claims paid under comprehensive coverage*, (italics added) unless the carrier can demonstrate that the loss was a result of an insured's actions.

2. Notice of proposed actions.

a. A proposal to cancel, nonrenew, increase the premium or reduce coverage under a private passenger motor vehicle insurance policy shall *state the actual reason* for proposing such action in the notice required by §10-4-629(2)(c), C.R.S. Only one notice is required to be sent to the insured whose incident resulted in the proposed action. The statement of reasons shall be clear and specific so that a reasonable person can understand it. The insurer shall *clearly describe its underwriting rule, policy or guideline* which is the basis for the

proposed action. *A simple recitation of dates and incidents, without further detail, is not acceptable* and may cause the insurer's proposed action to be disallowed.

**Private Passenger Auto Policies Cancelled in first 59 Days**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
47	47	4	9%

The examiners reviewed forty-seven (47) policies, representing 100% of all policies cancelled within the first fifty-nine (59) days by the Company. Four (4) exceptions (9 % of the sample) resulted because the Company included comprehensive losses on the notice of cancellation.

Including comprehensive losses on the cancellation of an automobile policy may be a violation of Colorado Insurance law.

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**Recommendation #8:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Section 10-4-629, C.R.S., and Colorado Insurance Regulation 5-2-12. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has implemented policies and procedures to ensure future compliance with Colorado Insurance law.

**PERTINENT FACTUAL FINDINGS**

**CLAIMS**

**Issue I: Failure to pay title transfer fees on total loss claims.**

Section 10-3-1104, (1)(h), C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, defines an unfair business practice as:

(VI) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;

Section 10-4-639, C.R.S., Claims practices for property damage, states, in part:

(1) An insurer shall pay for title fees, sales tax, and any other transfer of registration fee associated with the total loss of a motor vehicle.

The company's Personal Auto Policy and/or endorsements used during the examination period states:

**Part A—Liability Coverage**

**Insuring Agreement**

A. We will pay damages for “bodily injury” or “property damage” for which any “insured” becomes legally responsible because of an auto accident. ...

**Part D—Coverage for Damage to Your Auto**

- a. We will pay for direct and accidental loss to “your covered auto” or any “non-owned,” including their equipment, minus any applicable deductible shown in the Declarations. If loss to more than one “your covered auto” or non-owned results from the same “collision,” only the highest applicable deductible will apply. We will pay for loss to “your covered auto” caused by:
1. Other than “collision” only if the Declarations indicate that Other Than collision Coverage is provided for that auto.
  2. “Collision” only if the Declarations indicate that collision Coverage is provided for that auto.

**Private Passenger Auto claims Paid**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
611	50	13	26%

The examiners reviewed fifty (50) paid claims, representing 8.2% of all private passenger auto claims paid by the Company. Thirteen (13) exceptions (26 % of the sample) resulted because the Company failed to pay title transfer fees on total loss claims.

Whenever a vehicle is declared a total loss there are ancillary costs that must be considered when adjusting and valuing the claim. Insurers must include taxes and title transfer fees in total loss payments because such costs are an integral part of the loss. In Colorado, such costs include, but are not limited to, vehicle sales taxes, license plate transfer fees and title transfer fees.

Failure to pay title transfer fees may be a violation of Colorado Insurance law.

**Recommendation #9:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Sections 10-3-1104, and 10-4-639, C.R.S. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has implemented policies and procedures to ensure future compliance with Colorado Insurance law

**Market Conduct Examination**  
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Independent Market Conduct Examiner

Gary L. Domer, CIE

James H. Daughan, CPCU, CIE, AIM

Participated in this examination and in the preparation of this report